

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation	)	
Against:	)	No. D-4408
	)	
ALFREDO SANTOS DAZO, M.D.	)	OAH No. N-38290
	)	
Physician and Surgeon	)	
Certificate No. C38642	)	
	)	
Respondent.	)	

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DECISION

The Division of Medical Quality non-adopted the Proposed Decision of the Administrative Law Judge and proceeded to decide the case itself upon the record, including the transcript. The parties were afforded the opportunity to present oral and written arguments to the Division itself.

Having reviewed the entire matter, the Division now makes this decision.

The Division adopts the attached Proposed Decision of the ALJ as its decision in this case, except that the Penalty Order is not adopted but is changed and modified by the Division in the following Penalty Order which is set forth in full in one document for the purpose of convenient reference:

ORDER

Certificate No. C38642 issued to Respondent Alfredo Santos Dazo, M.D., is revoked for violation of probation.

However, revocation is stayed and Respondent is placed on probation for a new term of 10 years beginning the effective date of this decision, upon the following terms and conditions:

1. As part of probation, Respondent is suspended from the practice of medicine for 180 days beginning the effective date of this decision.

2. During the first five years of probation, Respondent is prohibited from examining or treating female patients. After

that five-year period, Respondent may examine or treat female patients, but only the under the express condition that a third party chaperon is present.

3. Within 30 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Division or its designee, Respondent shall undergo a psychiatric evaluation (and psychological testing, if deemed necessary) by a Division-appointed psychiatrist who shall furnish a psychiatric report to the Division or its designee.

If Respondent is required by the Division or its designee to undergo psychiatric treatment, Respondent shall within 30 days of the requirement notice submit to the Division for its prior approval the name and qualifications of a psychiatrist of Respondent's choice. Upon approval of the treating psychiatrist, Respondent shall undergo and continue psychiatric treatment until further notice from the Division. Respondent shall have the treating psychiatrist submit quarterly status reports to the Division.

4. Within 30 days of the effective date of this decision, Respondent shall submit to the Division for its prior approval a plan of practice in a structured environment in which Respondent's practice shall be monitored by another physician in Respondent's field of practice, who shall provide periodic reports to the Division.

If the monitor resigns or is no longer available, Respondent shall, within 15 days, move to have a new monitor appointed, through nomination by Respondent and approval by the Division.

Respondent is prohibited from engaging in solo practice.

5. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in California.

6. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation.

7. Respondent shall comply with the Division's probation surveillance program.

8. Respondent shall appear in person for interviews with the Division's medical consultant upon request at various intervals and with reasonable notice.

9. The period of probation shall not run during the time Respondent is residing or practicing outside the jurisdiction of

California. If, during probation, Respondent moves out of the jurisdiction of California to reside or practice elsewhere, Respondent is required to immediately notify the Division in writing of the date of departure, and the date of return, if any.

10. Upon successful completion of probation, Respondent's certificate will be fully restored.

11. If Respondent violates probation in any respect, the Division, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against Respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

The effective date of this Decision shall be  
June 21, 1992.

So Ordered May 22, 1992.

MEDICAL BOARD OF CALIFORNIA  
Division of Medical Quality

By *Theresa L. Claassen*  
THERESA L. CLAASSEN  
Secretary/Treasurer

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation	)	
Against:	)	No. D-4408
	)	
ALFREDO SANTOS DAZO, M.D.	)	OAH No. N-38290
	)	
Physician and Surgeon	)	
Certificate No. C38642	)	
	)	
Respondent.	)	
	)	

---

PROPOSED DECISION

On November 18, 1991, in Sacramento, California, Muriel Evens, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Joel Primes, Deputy Attorney General, represented the complainant.

Richard K. Turner, Attorney at Law, represented respondent.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

The Medical Board issued physician and surgeon certificate No. C38642 to respondent Alfredo Santos Dazo on May 29, 1979.

On March 3, 1990, respondent's certificate was revoked, the revocation stayed and respondent placed on probation to the Board for two years with certain terms and conditions. Among the conditions was number 8: "During probation, respondent shall

have a third party present while examining or treating female patients."

## II

Respondent was employed by another physician in the Sacramento area. That physician, as well as the Board investigator, discussed the terms of probation with respondent, including a discussion of condition 8, as indicated in Finding I.

## III

On July 9, 1990, and August 30, 1990, respondent examined female patients for the Department of Rehabilitation. The examinations included various systems, blood pressure, pulse and urinalyses. The examinations included the breasts, but did not include pelvic exams. In each of these cases, respondent was alone in the examining room with the patient. No third party was present. Both patients complained to the Department regarding what they stated were sexual overtones to their examinations.

One of the patients, P.G., testified at the hearing. She was "uncomfortable" about the examination, primarily because respondent told her she was "very pretty", because the exam room door was shut and because no other person was in the room. P.G. is young and her prior experience with intimate examinations had been with a female doctor.

## IV

Respondent admits no third party was present during these examinations. He states he thought the condition only applied to pelvic examinations. He denies making any sexual statements or advances to the patients.

## V

Respondent is a lieutenant colonel in the Army Reserve, serving as a physician. He provided medical services at Ft. Bragg, NC, in support of Operation Desert Storm, from December 21, 1990 to September 1, 1991. He received a Certificate of Achievement for his participation and an outstanding evaluation from his commanding officer.

Respondent assisted in the medical processing of over 20,000 soldiers, male and female. There were no complaints lodged against respondent for his examination or treatment of any of the soldiers.

The evidence established that respondent is a fine physician.

## DETERMINATION OF ISSUES

### I

The evidence is insufficient to establish that respondent violated Business and Professions Code section 726. While respondent's comments to the patient may have been inappropriate, they do not alone rise to the level of sexual abuse or misconduct as required by section 726.

### II

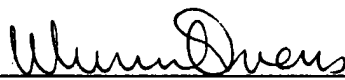
The evidence does establish that respondent did violate condition 8 of his order of probation. The language is clear and respondent was on notice that he was required to have a third party present when examining or treating female patients.

## ORDER

Respondent's Order of Probation is modified as follows:

- a. Respondent's period of probation shall be extended to 10 years from the effective date of this decision.
- b. During the first five years of his probation, respondent shall not examine or treat female patients. During the final five years of his probation, respondent may examine and treat female patients, but only in accordance with condition 8.
- c. Notwithstanding the above, respondent may examine and treat female military personnel while respondent is on full-time military duty, but only in accordance with condition 8.
- d. All other terms and conditions of probation are retained.

Dated: December 19, 1991

  
\_\_\_\_\_  
MURIEL EVENS  
Administrative Law Judge  
Office of Administrative Hearings

1 JOHN K. VAN DE KAMP, Attorney General  
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2 JOEL S. PRIMES, Supervising  
Deputy Attorney General  
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5  
6 Attorneys for Complainant

7  
8 BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
9 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

10 In the Matter of the Accusation	)	No. D-4408
11 Against:	)	
12 ALFREDO SANTOS DAZO, M.D.	)	ACCUSATION TO
13 1100 Parkview Drive	)	<u>REVOKE PROBATION</u>
14 Roseville, CA 95661	)	
15 Physician's and Surgeon's	)	
Certificate No. C38642	)	
Respondent.	)	

16  
17 Kenneth M. Wagstaff, the complainant herein, alleges as  
18 follows:

19 1. He is the Executive Director of the Medical Board  
20 of California and makes these allegations in his official  
21 capacity as such.

22 2A. On or about May 29, 1979, respondent Alfredo  
23 Santos Dazo, M.D. (hereinafter "respondent"), was issued  
24 physician's and surgeon's certificate number C38642 under the  
25 laws of the State of California.

26 2B. Respondent is not a supervisor of a physician  
27 assistant.

1           3. Section 2234 of the Business and Professions Code  
2 (hereinafter "the Code") provides that the Division of Medical  
3 Quality of the Medical Board of California (hereinafter "Board")  
4 shall take action against a holder of a physician's and surgeon's  
5 certificate who is guilty of unprofessional conduct.

6           4. Business and Professions Code section 726 provides:

7           "The commission of any act of sexual abuse,  
8 misconduct, or relations with a patient, client, or  
9 customer which is substantially related to the  
10 qualifications, functions, or duties of the occupation  
11 for which a license was issued constitutes  
12 unprofessional conduct and grounds for disciplinary  
13 action for any person licensed under this division,  
14 under any initiative act referred to in this division  
15 and under Chapter 17 (commencing with Section 9000) of  
16 Division 3.

17           5. Effective March 18, 1990, respondent "In the Matter  
18 of the Accusation Against Alfredo S. Dazo, M.D., No. D-3712; OAH  
19 No. N-30722" was placed on two years probation to the Board upon  
20 the following terms and conditions:

- 21           1. Respondent shall obey all federal, state and local  
22 laws, and all rules governing the practice of medicine  
23 in California.
- 24           2. Respondent shall submit quarterly declarations under  
25 penalty of perjury on forms provided by the Division,  
26 stating whether there has been compliance with all the  
27 conditions of probation.
3. Respondent shall comply with the Division's probation  
surveillance program.

28 ///

29 ///



- 1        4.    Respondent shall appear in person for interviews with  
2            the Division's medical consultant upon request at  
3            various intervals and with reasonable notice.
- 4        5.    The period of probation shall not run during the time  
5            respondent is residing or practicing outside the  
6            jurisdiction of California. If, during probation,  
7            respondent moves out of the jurisdiction of California  
8            to reside or practice elsewhere, respondent is required  
9            to immediately notify the Division in writing of the  
10          date of departure, and the date of return, if any.
- 11       6.    Upon successful completion of probation, respondent's  
12          certificate will be fully restored.
- 13       7.    If respondent violates probation in any respect, the  
14          Division, after giving respondent notice and the  
15          opportunity to be heard, may revoke probation and carry  
16          out the disciplinary order that was stayed. If an  
17          accusation or petition to revoke probation is filed  
18          against respondent during probation, the Division shall  
19          have continuing jurisdiction until the matter is final,  
20          and the period of probation shall be extended until the  
21          matter is final
- 22       8.    During probation, respondent shall have a third party  
23          present while examining or treating female patients.

24 (See Exhibit A, Board Decision, incorporated herein as if set  
25 forth in full.)

26 ///

27 ///

6. Respondent is subject to disciplinary action as he violated Business and Professions Code section 726 and probationary conditions 1 and 8 as set forth below:

A

On July 9, 1990, respondent examined 19-year-old Corinna T, a female patient, in an inner office at the medical office at 4707 Engle Road, Suite 4, Carmichael, California, without a third party present. This was a physical examination for the Department of Rehabilitation. Respondent rubbed the patient's legs and had her remove her blouse and bra to listen to her heart. Respondent, without explanation, pulled off her top and bra exposing her breasts. Respondent, in a low voice, told patient Corinna T that she was "very good looking" and was "very healthy." Without explanation, respondent undid patient Corinna T's pants and pulled them down.

B

On August 30, 1990, respondent examined 20-year-old Paula G., a female patient, in the medical office at 4707 Engle Road, Suite 4, Carmichael, California, without a third party present. The medical appointment was for a physical examination for the Department of Rehabilitation. Respondent shut the examination room door and there was only respondent and patient Paula G. in the room when the examination occurred. Respondent performed a breast examination and pressed his hand just above the patient's pubic area. Respondent pulled down the patient's pants, below her buttocks. He then felt her buttocks.

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1 Respondent told the patient she was "very pretty" and "very  
2 healthy" while doing the intimate examination.

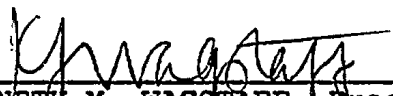
3 C

4 On May 31, 1988, respondent was placed on criminal  
5 probation by the Sacramento Municipal Court District, in the  
6 matter entitled People of the State of California v. Alfredo  
7 Santos Dazo, Docket Number 87F03211 amended. Respondent was  
8 placed on three years probation which required him to:

- 9 1. Obey all laws.  
10 2. Follow any orders of the Board of Medical Quality  
11 Assurance.

12 WHEREFORE, complainant prays that a hearing be held and  
13 if the charges set forth herein are found to be true, the Medical  
14 Board of California revoke probation on Certificate No. C38642  
15 issued to respondent Alfredo Santos Dazo, M.D., to practice  
16 medicine in the State of California and take such other action as  
17 the Board deems proper.

18 DATED: November 9, 1990

19  
20   
21 KENNETH M. WAGSTAFF, Executive Director  
22 Medical Board of California

23 Complainant  
24  
25  
26  
27

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# **EXHIBIT A**

## STATE OF CALIFORNIA

DAH No. N-30722

**THERESA CLAASSEN**  
Secretary/Treasurer

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY ASSURANCE  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Supplemental )	
Accusation Against: )	No. D-3712
)	
)	
ALFREDO S. DAZO, M.D. )	OAH NO. N-30722
1100 Parkview Dr. )	
Roseville, CA 95678 )	
)	
)	
Respondent. )	
)	

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PROPOSED DECISION

On June 8 and 9, 1989, in Sacramento, California a panel of the Second District Medical Quality Review Committee heard this matter. The panel consisted of: Constance Huff, R.N., Roberta Jones, and Robert Peppercorn, M.D., Chairperson. John D. Wagner, Administrative Law Judge of the Office of Administrative Hearings, State of California, presided.

Complainant was represented by Joel S. Primes, Supervising Deputy Attorney General.

Respondent appeared in person and was represented by Richard Turner, Attorney at Law.

Evidence was received, the record was closed and the matter was submitted.

The panel then met in executive session and made this decision by unanimous vote.

FINDINGS OF FACT

I

Kenneth Wagstaff filed the supplemental accusation in his official capacity as the Executive Director of the Board of Medical Quality Assurance, State of California.

On May 29, 1979, respondent was issued physician's and surgeon's certificate number C038642 authorizing him to practice medicine in California. At all times herein mentioned, said certificate was in full force and effect.

### III

On March 18, 1987, respondent treated patient Sandra S. at Kaiser Permanente, Roseville, for an injured left knee. During respondent's examination, he requested Sandra S. to raise her left leg and knee in order to determine whether there was any injury to her hip or pelvic area.

It is not true that respondent was guilty of unprofessional conduct by way of patient sexual abuse and sexual misconduct, or repeated negligent acts during the above examination. Respondent did not request Sandra S. to raise her left leg and knee into the air for the purpose of staring at her genital area nor did he so stare.

### IV

On April 29, 1987, patient Sandra S. was involved in a traffic accident. As a result of the accident, Sandra S. received a concussion on her forehead, and complained of pain in her neck, right shoulder, right elbow and forearm, and her left knee and shin. At the sight of the accident Sandra S. was conscious and ambulatory. Her husband took her to the Kaiser Permanente, Morse Avenue, Sacramento, emergency room and she was later examined by respondent at the urgent care annex. Respondent conducted a head-to-toe examination of Sandra S. The examination included palpation of the chest wall and breast. It included a squeezing of Sandra S.'s nipples to check for discharge of blood or other fluids.

It was not proved that during this examination respondent engaged in acts of patient sexual abuse and sexual misconduct, or repeated negligent acts. It was not proved that respondent pulled down the patient's bra and repeatedly fondled her breast. Although respondent did try to remove Sandra S.'s panties, it was not proved that respondent grabbed the patient's panties and tried to pull them down. Nor was it proved that respondent's conduct was committed for his own sexual stimulation. It was not proved that respondent's conduct during the examination was unprofessional.

### V

On May 31, 1988, respondent was convicted on his plea of nolo contendere of violating section 242 (unlawful use of force and violence upon Sandra S. committed on April 29, 1987) of the California Penal Code. (People v. Dazo (Muni. Ct., Sacramento Municipal Court District, Sacramento County, No. 87F03211)). This crime is a

misdemeanor involving moral turpitude. It is substantially related to the qualifications, functions or duties of a licensed physician because it arose out of a medical examination.

As a result of his conviction, imposition of sentence was suspended and respondent was placed on three years summary probation. The terms of respondent's probation included a requirement for 160 hours of community service and a requirement that respondent follow any orders of the Board of Medical Quality Assurance. Respondent has completed his community service hours and is complying with the other terms of his probation. His probation will terminate on May 31, 1991.

The facts and circumstances surrounding respondent's plea of nolo contendere include the following: respondent and his family were under great stress and had been under great stress since Sandra S.'s complaint was made. As a result of the complaint, respondent was no longer allowed to see patients and could only provide phone advise to patients. Respondent was originally charged with a felony which was reduced to a misdemeanor as a result of plea negotiations. It was respondent's belief that if he were not convicted of a felony, he would be allowed to see patients again. He believed a plea would bring the matter to an end.

## VI

Respondent has been married for 22 years and has two children, ages 21 and 9. He graduated from Manila Central University Medical School in 1965. As an exchange student, he completed a five year pathology residency in Illinois and is board eligible in pathology. Most of respondent's practice, however, has been in family practice. He was certified by the American Board of Family Practice in 1978. After being licensed in California in 1979, respondent practiced family medicine for eight years with Kaiser Permanente. Since July, 1988, he has been in private practice in association with another doctor. He wants to continue his association.

Respondent has no independent recollection of patient Sandra S. On the evening of April 29, 1987, when he examined Sandra S. for motor vehicle accident trauma, he was completing a six hour shift, to assist the Morse Avenue facility, after completing his regular eight hour shift at the Roseville facility. Although it is his usual practice to have a third person present when he conducts the type of examination he conducted on Sandra S., a third person was not present during her examination. In keeping with his training, it is respondent's normal practice to conduct a complete body examination of trauma patients. Patient Sandra S. was familiar with a normal breast examination. During a trauma examination, however, palpation of the chest and breast is not conducted in the same way as palpation of the breast during a normal breast examination.

On April 28 and May 4, 1989, respondent was examined and evaluated by Larry J. Otterness, M.D. and psychiatrist. Dr. Otterness found no psychopathology in respondent. Respondent has no prior disciplinary history.



### DETERMINATION OF ISSUES

Pursuant to the foregoing findings of fact, the panel makes the following determination of issues:

#### I

Cause for discipline of respondent's license was not established for violation of sections 726 and 2234, subsection (c), of the Business and Professions Code, by reason of Findings III and IV.

#### II

Said cause was established for violation of section 2236, subsection (a), of said code, by reason of Finding V.

#### III

In view of all of the above findings and Determination of Issues II, a stayed revocation with two years probation and standard probation conditions is an appropriate discipline in this matter.

### ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Certificate number C038642 issued to respondent Alfredo S. Dazo, M.D., is revoked. However, the revocation is stayed and the respondent is placed on probation for two years upon the following terms and conditions:

1. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in California.
2. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation.
3. Respondent shall comply with the Division's probation surveillance program.
4. Respondent shall appear in person for interviews with the Division's medical consultant upon request at various intervals and with reasonable notice.
5. The period of probation shall not run during the time respondent is residing or practicing outside the jurisdiction of California. If, during probation, respondent moves out of the

jurisdiction of California to reside or practice elsewhere, respondent is required to immediately notify the Division in writing of the date of departure, and the date of return, if any.

6. Upon successful completion of probation, respondent's certificate will be fully restored.
7. If respondent violates probation in any respect, the Division, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

Dated: July 5, 1989

BOARD OF MEDICAL QUALITY ASSURANCE

*Robert Peppercorn M.D.*

ROBERT PEPPERCORN, M.D.  
CHAIRPERSON